

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN BILL TASH**, on February 1, 1999 at
3:00 P.M., in Room 437 Capitol.

ROLL CALL

Members Present:

Rep. Bill Tash, Chairman (R)
Rep. Hal Harper, Vice Chairman (D)
Rep. Cindy Younkin, Vice Chairman (R)
Rep. Rod Bitney (R)
Rep. Aubyn A. Curtiss (R)
Rep. Rick Dale (R)
Rep. Bill Eggers (D)
Rep. Ron Erickson (D)
Rep. David Ewer (D)
Rep. Gail Gutsche (D)
Rep. Joan Hurdle (D)
Rep. Dan McGee (R)
Rep. Douglas Mood (R)
Rep. Scott J. Orr (R)
Rep. Bob Raney (D)
Rep. Bob Story (R)
Rep. Jay Stovall (R)
Rep. Doug Wagner (R)

Members Excused: Rep. Karl Ohs (R)
Rep. Carley Tuss (D)

Members Absent: None.

Staff Present: Deb Thompson, Committee Secretary
Kathleen Williams, Legislative Branch

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 346, HB 392, 1/29/1999
Executive Action: HB's 158-165

HEARING ON HOUSE BILL 346

Sponsor: Rep. Bob Raney, HD 26, presented the bill. He explained the bill would allow the citizens the ability to view Environmental Impact Statements on line. This will allow large companies or rail road companies to post their reports electronically. Citizens who want to know about the project can read it on the computer as an alternative. This saves mailing expenses and state employee costs, such as lost time in reproduction. Citizens would have immediate access.

Proponents: Julia Page, a river outfitter from Gardner, spoke in favor of the bill. She pointed out success in communication helps maintain good relationships. She discussed her activities in regards to the TBX Mineral Hill Gold Mine and the Church Universal and Triumphant in trying to get access to the library, since the library was only open Tuesday and Thursday and entailed a long drive. When mitigation and reports are made available on websites the public will know more about it.

Opponents: None

Questions from Committee Members and Responses: Rep. Hurdle asked about reporting requirements. Rep. Raney described the electronic process. He pointed out the information is public. Electronic transfer is less expensive and requires less staff.

Closing by Sponsor: Rep. Raney closed.

HEARING ON HOUSE BILL 392

Sponsor: Rep. Tash, HD 34, presented the bill. He described the purpose and intent of the advisory group that helped implement the Clean Water Act. The advisory group had members representing the regulated industries that dealt with the federal Clean Water Act. He said HB 392 contained no substantial changes. It guarantees continued involvement with the statewide TMDL advisory group. The only changes in the bill are reinforcement to make sure the statewide advisory group is left in place. He noted the conservation districts were essential and would be assisted by collaborative efforts. Monitoring water bodies that are identified as threatened or impaired would be ranked as priorities. Replacement members on the TMDL advisory council would be appointed as needed. **{Tape : 1; Side : A; Approx. Time Counter : 14.5}**

Proponents: John Youngberg, Montana Farm Bureau and chairman of STAG, spoke in favor of the bill. The council helped with the

prioritization of the list of streams. He said the bill would provide oversight and public input to the monitoring process.

{Tape : 1; Side : A; Approx. Time Counter : 21}

Gary Hegreberg, Montana Wood Products Association, spoke in favor of the bill. He noted this was a productive program for the state. **{Tape : 1; Side : A; Approx. Time Counter : 24}**

John Blomquist, Montana Stockgrowers Association, discussed the benefits of the program.

Don Allen, Western Environmental Trade Association, supported the bill. Continuity is important to make sure there is a continued relationship between STAG and the department.

Mike Murphy, representing Montana Water Resources Association, said the bill provided an excellent resource

Jeff Barber, Montana Environmental Information Center, spoke in support of the bill. He said the bill would add an important layer of assistance and accountability to what could be a potentially contentious and controversial process.

Julia Page, from Gardiner, spoke on behalf of the Northern Plains Resource Council in support of the bill. She said they had the opportunity to participate with the department with the creation and the amendment of 1996 and 1998 list of impaired waters under the TMDL law. This bill, by increasing the involvement with the advisory committee, is important in terms of public information and additional chances for participation.

Opponents: None

Questions from Committee Members and Responses: Rep. Ewer asked about consultations. Mr. Barber described how the committee looked into what kind of information their association needed, and consulted with regards to the agendas, asking for input.

Closing by Sponsor: Rep. Tash closed. He noted the time frame of ten years was ambitious when it came to impaired waters.

EXECUTIVE ACTION ON HOUSE BILL 392

Rep. Harper **MOVED DO PASS** HB 392. The question was called. The motion **PASSED** 19-1, with one no vote by Rep. Orr.

EXECUTIVE ACTION ON HOUSE BILL 346

Rep. Hurdle **MOVED DO PASS**. Rep. Raney presented an amendment to change the word "assess" with "access" on lines 16 and 18. The question was called. The motion **PASSED UNANIMOUSLY**.

Rep. Raney **MOVED THE BILL AS AMENDED**. Rep. Curtiss pointed out that some businesses may not have the ability to comply. Rep. Raney responded this bill addressed EIS, not EA's. He said these were large companies who were well equipped to be able to transfer data in this manner.

Rep. Bitney **MOVED A SUBSTITUTE AMENDMENT**. He pointed out that the bill should not be effective on passage and approval. Since more time was needed he suggested line 24 be deleted.

Rep. Raney said October 1 would be okay since more information would be available by then.

The question was called. The motion **PASSED UNANIMOUSLY** to strike line 24.

Rep. Raney **MOVED DO PASS AS AMENDED**. The question was called. The motion **PASSED** with two no votes by Reps. Orr and Bitney.

EXECUTIVE ACTION ON HOUSE BILL'S 158-165

Amendments were distributed which were requested by Rep. Erickson and Rep. Ohs.

Rep. Erickson **MOVED** his amendments. He explained these were the result of Peter Nielson's testimony from Missoula which addressed his concerns. This addressed Nielson's concern that licensed inspectors employed by a local government are exempt from the licensing fees in subsection 2. Local governments have been established in state government as doing this task and they do a good job. They establish good relationships and know where the places are; a trust relationship is formed so when a problem occurs those folks are called. This amendment would allow local governments that are doing this to continue. **{Tape : 1; Side : A; Approx. Time Counter : 54.1 - 58.1}**

Rep. Story requested to segregate the amendments. He felt there were two concepts. If government employees were allowed to be licensed they should not be doing internal inspections. They should not compete with someone who has paid to get a license and probably has to carry insurance or bonding to protect him from

liability; it is difficult to have a privatized system when the private has to compete with the county employees. Rep. Younkin asked what the department thought of the amendment. Director Simonich replied it appeared to create an unfair situation where local governments are not required to pay the same fee as individuals in the private sector. This may set up a competition with local governments.

Rep. Harper commented that the question was whether you wanted the tanks inspected properly or whether you wanted to create a viable new employment group. The important aspect is to do the proper thing environmentally. The cheaper the inspection the more inspections are done. He said let the counties that are doing this continue to do it and get the tanks out of the ground and cleaned up.

{Tape : 1; Side : B}

The question was called on the Erickson Amendment, #1. The motion **PASSED** 17-2 with Reps McGee and Curtis voting no.

Rep. McGee asked why change the one year to a two year requirement. Rep. Erickson said this just addressed the testimony. Rep. Story said he recalled people were asking to go to a two year and Rep. Ohs amendment addressed that issue. Rep. Story said he would vote against the rest of the amendments. A privatized system would suggest substantial competition as long as the local government system was still in place. Rep. Raney said he was uncomfortable turning this over to private enterprise. Local governments that want to engage in this should be okay.

Rep. Ewer pointed out the importance of the Missoula aquifer. He said the locals want control and inspecting tanks through government is an essential function. Rep. Tuss pointed out there are many tanks that still need to be inspected.

Rep. Erickson noted the present system of trying to find someone in Helena and send them out wasn't working well. There is a need to make sure that groundwater all over the state is being protected. However, Missoula County is doing a good job now and should continue doing it.

The question was called on the Erickson amendments, #2-4. The motion **FAILED** on a 9-10 vote.

Rep. Younkin **MOVED** the Ohs amendment. The question was called. The motion **PASSED** 16-4.

Rep. Ohs longer amendments were considered (15803). Kathleen Williams explained this came as a result of the Burlington Northern Santa Fee issue. This would require an insurance policy to cover inspection errors. This would allow an owner or operator the right to bring action against an inspector. **{Tape : 1; Side : B; Approx. Time Counter : 10.4}**

Rep. Harper noted the committee ought to be careful about the burden put on the inspectors, the higher bond, the more the inspections would cost and the fewer jobs they would get since it would raise the cost. Some of these tanks would not be inspected. **{Tape : 1; Side : B; Approx. Time Counter : 12.5}**

Rep. Story asked what a \$500 thousand dollar insurance policy would cost and if that was adequate. Rep. Ewer commented that no one would sell such an insurance policy. Rep. Bitney said he had concerns about such large liability.

The question was called. The motion **FAILED** 7-13 on the Ohs amendments (15803).

Rep. Younkin **MOVED** the bill as amended, with amendment #1 of Rep. Erickson and the first Ohs amendment.

Rep. Story pointed out the amendment needed more work if the intention was to allow them to inspect those tanks in the city. Rep. Younkin asked if local government entities could still inspect if this was passed now as amended as well as private inspectors. Simonich replied anyone could be licensed to inspect. It was up to the owner of the facility to select someone to inspect. Missoula County may want to have their sanitarian licensed and provide that service. The department would no longer pay Missoula County to do the inspections, they would collect that fee directly from the owner. Under the amendment that had been adopted, any county would be exempt from paying the licensing fees. **{Tape : 1; Side : B; Approx. Time Counter : 23.9}**

Rep. Ewer commented that he did not like private inspections since the county could not maintain control.

The question was called on the bill as amended. The vote was 10-10 **FAIL**. Rep. Story **MOVED TO TABLE**. The motion passed with two no votes.

Rep. Story **MOVED TO TABLE** all the consecutive underground storage bills HB's 159-165. The motion **PASSED UNANIMOUSLY**.

EXECUTIVE ACTION ON HOUSE BILL 96

Rep. McGee **MOVED** to reconsider HB 96 and bring it off the table. Rep. Ewer said the bill was tabled for good reason because there were a lot of flaws. Rep. McGee said the reason for reconsidering the bill is he had conversations with DNRC regarding reestablishment of survey for easement requirements. This would allow landowners to interchange with state lands, reciprocal easements, for the mutual benefit of both the adjoining land owners and state lands.

Rep. Younkin pointed out the new section was identical to an existing section that already allowed this to go on in regards to timber lands. This would repeal that and create the new one which would apply to all state lands. She said there was no problem when it came to timber land and it should apply to other land as well.

Rep. Raney said he was not concerned with reciprocal agreements but subsection two says they don't have to consider MEPA. He pointed out you could have a major state action that did not have to be reviewed. You could disturb an antelope herd with a road. Rep. McGee pointed out this did not apply to new road activity.

Rep. Harper commented that he would ask for an amendment to allow hunter, hiker and angler access for all these easements since this was how to get access to all these state lands.

The question was called to bring HB 96 off the table. The motion **PASSED** 11-9 on a roll call vote.

Rep. McGee **MOVED** to amend HB 96 to reinstate the original language on lines 13-15.

Rep. Wagner noted both he as an engineer and Rep. McGee as a surveyor both witnessed the negative aspects of not having specific surveys. He asked if the state would be open to some liability. He stated they were assured the liability was not there because of the method used to delineate existing roadways had been used successfully. It reduces the cost to adjacent landowners and to the state, so there is a mutual benefit. In reference to the MEPA question, DNRC does not have personnel to conduct a MEPA evaluation on remote lands where these reciprocal agreements take effect. However, if that proposed action does trigger MEPA, that would happen anyway. The department is just stating the limit of their resources. The bill gives flexibility to the land owner and the department.

The question was called on the amendments to reinstate lines 13, 14, and 15. The motion **PASSED** 15-5.

Rep. Ewer **MOVED** to amend the bill by stripping out lines 16, 17, and 18. The current bill gives the department the ability to ignore MEPA, and this amendment would require them to comply with MEPA. MEPA is the public's right to know what government does. The question was called on the Ewer amendment. The motion **FAILED** 7-12.

Rep. Harper **MOVED** to amend the new subsection 3, line 19, that would add "agreements to negotiate to allow for public use of easements to reach state lands". He explained sports and recreational people have been trying to reach isolated state lands and this bill would provide an opportunity to do that.
{Tape : 1; Side : B; Approx. Time Counter : 48.4}

Rep. Story noted that if Rep. Harper's amendment were to succeed these easements would never be granted.

Rep. Younkin added that the department could already do this in their negotiations and if not there would be no reciprocal easements granted.

Rep. Dale pointed out that easements are not always requested by the private landowner. The department often initiates the request and needs the access to manage state property. There would be no incentive for the private landowner to give up his rights.

The question was called on the Harper amendment. The motion **FAILED** 9-11 on a roll call vote.

Rep. McGee called for the question on the bill as amended. The motion **PASSED** 11-9 on a roll call vote.

ADJOURNMENT

Adjournment: 5:18 P.M.

REP. BILL TASH, Chairman

DEBBIE THOMPSON, Secretary

BT/DT

EXHIBIT (nah25aad)